

CHRISTOPHER DEVOTO,)
)
 Plaintiff,)
)
 v.) No. 2:13CV00019 ERW
)
 DEAN MINOR, et al.,)
)
 Defendants.)

This matter is before the Court for review of plaintiff's amended complaint under 28 U.S.C. § 1915(e). Under § 1915(e), the Court must dismiss a case filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted.

This action arises under 42 U.S.C. § 1983. In his amended complaint, plaintiff names Corizon, Inc., and the Missouri Department of Corrections (“MoDOC”) as defendants. Plaintiff alleges that Corizon will not authorize the use of a life-saving drug for his Hepatitis C because it is too costly and because plaintiff’s liver disease has not progressed far enough to warrant it. Plaintiff claims that MoDOC has failed to grant him his earliest possible release date so that he can obtain the drug outside of the prison environment.

The complaint fails to state a claim against the Missouri Department of Corrections because an agency exercising state power is not a “person” subject to a suit under § 1983. E.g., Barket, Levy & Fine, Inc. V. St. Louis Thermal Energy Corp., 948 F.2d 1084, 1086 (8th Cir. 1991).

The Court will allow this action to proceed against Corizon at this time. As a result, the Court will direct the Clerk to serve process on Corizon.

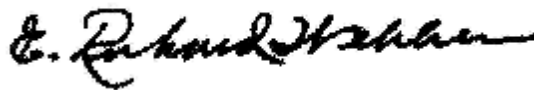
Accordingly,

IT IS HEREBY ORDERED that the Clerk shall issue process or cause process to issue as to defendant Corizon, Inc.

IT IS FURTHER ORDERED that defendant Missouri Department of Corrections is **DISMISSED** from this action without prejudice.

An Order of Dismissal will be filed with this Memorandum and Order.

So Ordered this 25th day of April, 2013.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE